

Before the
Federal Communications Commission
Washington, DC 20554

FEB 2 2003

In the Matter of)

Request for Review of the)
Decision of the)

Universal Service Administrator by)

Huron Intermediate School District)
Bad Axe, Michigan)

File No. SLD-303560

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45 ✓

Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

CC Docket No. 97-21

ORDER

Adopted: February 10, 2003

Released: February 11, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Huron Intermediate School District (Huron **ISD**), Bad Axe, Michigan.¹ Huron ISD seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Huron ISD's appeal on the grounds that it was untimely filed? For the reasons set forth below, we affirm SLD's rejection and deny Huron ISD's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 16, 2002, denying Huron ISD's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD denied Huron ISD's request for discounts for telecommunications services, Funding Request Number (FRN) **781369**.⁴ On October 22, 2002,

¹ Letter from William Mayes, Huron Intermediate School District, to Federal Communications Commission, filed December 19, 2002 (Request for Review).

² See Request for Review; Letter from Schools and Libraries Division, Universal Service Administrative Company, to William Mayes, Huron Intermediate School District, dated October 24, 2002 (Administrator's Decision on Appeal). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Barb Polega, Huron Intermediate School District, dated July 16, 2002 (Funding Commitment Decision Letter).

⁴ *Id.*

Huron ISD filed an appeal of SLD's decision.' On October 24, 2002, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Huron ISD's appeal because it was received more than 60 days after the July 16, 2002 Funding Commitment Decision Letter was issued.⁶ Huron ISD subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed.' Documents are considered to be filed with the Commission or SLD only upon receipt.* Because the Huron ISD's Request for Administrator Review was not filed within the requisite 60-day period, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review.

4. To the extent that Huron ISD is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules for its underlying appeal of SLD's denial of its funding request, we deny that request as well.⁹ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.'' Huron ISD states that the individual who completed the original appeal letter was part of a department that was working short-staffed at the time and the individual believed that the deadline to file the appeal letter was 120 days.''

5. We conclude that Huron ISD **has** not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to ~~the~~ general rule.¹² The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the burden of adhering strictly to its filing deadlines.¹³ As we have consistently held in the past, it is

⁵ Letter from William Mayes, Huron ISD Catholic School, to Schools and Libraries Division, Universal Service Administrative Company, filed October 22, 2002 (Request for Administrator Review).

⁶ Administrator's Decision on Appeal,

⁷ 47 C.F.R. § 54.720(b). See *Implementation of Interim Firing Procedures for Firings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 339 (Com. Car. Bur. rel. December 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Firings & Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. December 28, 2001 and January 4, 2002).

⁸ 47 C.F.R. § 1.7.

⁹ See 47 C.F.R. § 54.720(b).

¹⁰ See 47 C.F.R. § 1.3.

¹¹ Request for Review at 1

¹² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors & the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8 ("In light of the

the applicant who **has** responsibility ultimately for the timely submission of its **appeals**.¹⁴ Staffing problems do not relieve applicants of their responsibility to comply with the program's rules and procedures.¹⁵ Here, Huron ISD fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Huron Intermediate School District, Bad Axe, Michigan, on December 19, 2002, and the request to waive the 60-day time limit in which to file an appeal **ARE DENIED**.

FEDERAL COMMUNICATIONS COMMISSION



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Wireline Competition Bureau

thousands of applications that SLD reviews and processes each funding year, it is **administratively** necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.”).

¹⁴ See *FCC Overrides Caldwell Televisions Associates, Ltd.*, Public Notice, 58 RR 2d 1706, 1707 (1985).

¹⁵ See, e.g., *Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service. Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.04-13-00.31900001, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 10910 (Com. Car. Bur. 2001) (denying waiver request in case when employee responsible for filing failed to do so).